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## TRANSMITTAL FORM

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Total Number of Pages in This Submission

17

Application Number	10/699,175
Filing Date	October 31, 2003
First Named Inventor	Bianchi et al.
Art Unit	3738
Examiner Name	Suzette J. Gherbi
Attorney Docket Number	MSDI-434/PC316.08

### ENCLOSURES (Check all that apply)

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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Remarks

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Krieg DeVault LLP		
Signature			
Printed name	Brad A. Schepers		
Date	August 25, 2008	Reg. No.	45,431

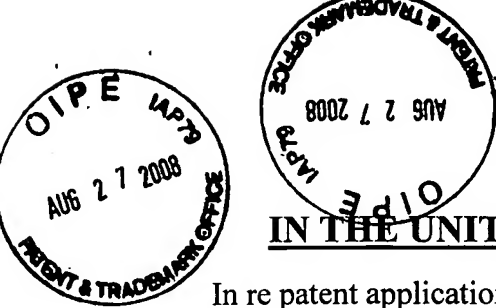
### CERTIFICATE OF TRANSMISSION/MAILING

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Signature			
Typed or printed name	Brad A. Schepers	Date	August 25, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

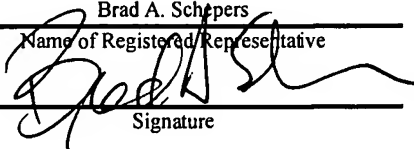
In re patent application of:	)	Before the Examiner:
Bianchi et al.	)	Suzette J-J Gherbi
	)	
Application of Serial No. 10/699,175	)	Group Art Unit 3738
	)	
Filed October 31, 2003	)	Ref. No. MSDI-434/PC316.08
	)	
OPEN INTERVERTEBRAL SPACER	)	August 25, 2008

**RESPONSE TO OFFICE COMMUNICATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Communication dated July 24, 2008 (one month to respond), please enter and consider the following amendments and remarks. The one (1) month response period for responding to the Office Communication fell on August 24, 2008, which was a Sunday, thereby extending the response period to August 25, 2008 (the first business day after August 24, 2008). Accordingly, no extension fees are believed due. However, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:	
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### **INTRODUCTORY COMMENTS**

Claims 72-135 and 249-361 were pending in the subject application for the Office Communication dated July 24, 2008. Claim 135 has been allowed. The remaining claims stand rejected on various grounds. In view of the following remarks, reconsideration and allowance of the subject application are hereby requested.